

## R E M A R K S

### **I. Introduction**

Applicants have amended claim 1 to incorporate the limitations of claim 4 in order to further clarify the scope of the present invention. Claim 4 has been cancelled, without prejudice. No new matter has been added.

A Request for Continued Examination is being filed concurrently with this Amendment.

For the reasons set forth below, Applicants respectfully submit that all pending claims are patentable over the cited prior art references.

### **II. The Rejection of Claims 1-5, 8, 9 And 11 Under 35 U.S.C. § 102/103**

Claims 1, 8, 9 and 11 were rejected under 35 U.S.C. § 102 as being anticipated by Hashiguchi et al. (JP Pub. No. 62-234878). In addition, claims 2-5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hashiguchi in view of Calsonic Corp. (JP 08-022845). As claims 2-4 have been incorporated into claim 1, Applicants will address the rejection of claims 2-4. Applicants respectfully traverse the pending rejections for at least the following reasons.

With regard to the present invention, amended claim 1 recites a battery storing device comprising: a battery storing section that can store a battery inside and has a heat retaining function of retaining heat of the battery that is stored inside using vacuum heat insulating material; a heat retention releasing mechanism for releasing the heat retaining function; and an independent discharge circuit having a heating resistor, wherein the heat retention releasing mechanism opens and closes an opening for making air flow between the inside and outside of the battery storing section; and said independent discharge circuit is directly coupled to the

battery and can perform discharge independently from the charge/discharge operation of a main circuit.

In other words, the battery of the present invention comprises two different temperature controlling elements. One temperature control element is the heat retaining mechanism and heat releasing mechanism, characterized in Fig. 1 by the battery storing section 30, the opening/closing lid body 6, the opening 5, magnetic material 7, electric magnets 8, 9, temperature detector 20 and controller 21. The other temperature control element is the independent discharge circuit having a heating resistor composed of a PTC device 17, resistance device 18 and switch device 19 controlled by the controller 21. The independent discharge device having a heating resistor is separate from the heat retaining/releasing mechanism, directly coupled to the battery and can perform discharge independently from the charge/discharge operation of the main circuit.

In the pending rejection and subsequent advisory action, the Examiner has stated that the claims of the present invention do not require two temperature controls. However, amended claim 1 clearly states a heat retention releasing mechanism for releasing the heat retaining function and an independent discharge circuit having a heating resistor. Both of these function as temperature controls.

Furthermore, it is acknowledged that Hashiguchi fails to disclose the recited independent discharge circuit having a heating resistor, and Calsonic Corp. is relied on as curing this deficiency. However, contrary to this conclusion, Calsonic Corp. fails to disclose an independent discharge circuit having a heating resistor *directly coupled to the battery*, nor does Calsonic even imply such a mechanism or circuit. Calsonic performs temperature control by use

of a heat retaining unit 34 of a battery 10, in order to maintain the battery at an optimal temperature. The PCT device 44 is a part of this unit, but it is not directly coupled to the battery, as is clearly shown in Fig. 1, it is the heat retaining unit 34 that is directly coupled to the battery.

Furthermore, although the Examiner alleges that the PCT device 44 is an independent discharge circuit having a heating resistor, the PCT device is merely a part of the heating element 34, which heats battery 10. Thus, the PCT device 44 is not an independent discharge circuit, as is the PCT device of the present invention. In view of the above, it is clear that Calsonic fails to disclose two separate temperature control elements or an independent discharge circuit directly coupled to the battery that is separate from the heat retaining/releasing mechanism as recited by amended claim 1. Furthermore, as noted in the Office Action, Hashiguchi fails to remedy this deficiency.

In order to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 180 USPQ 580 (CCPA1974). As Hashiguchi and Calsonic Corp., at a minimum, fail to disclose or suggest a battery storing device which includes an independent discharge circuit having a heating resistor that is capable of being directly coupled to the battery which can perform discharge independently from the charge/discharge operation of a main circuit, it is clear that both Hashiguchi and Calsonic Corp. do not render amended claim 1 obvious. As such, Applicants respectfully request that the § 103 rejection of amended claim 1, and all pending dependent claims thereon, be withdrawn.

**III. All Dependent Claims Are Allowable Because The Independent Claim From Which They Depend Is Allowable**

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as claim 1 is patentable for the reasons set forth above, it is respectfully submitted that all pending dependent claims are also in condition for allowance.

**IV. Conclusion**

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication of which is respectfully solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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